

AMENDED IN SENATE APRIL 22, 2014  
AMENDED IN SENATE MARCH 26, 2014

**SENATE BILL**

**No. 1406**

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**Introduced by Senator Wolk**

February 21, 2014

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An act to amend Section 831.5 of the Penal Code, relating to correctional officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, as amended, Wolk. Correctional Officers: Napa County.

Under existing law, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 425,000 or less, or by certain specified counties, including Santa Clara County, and that officer has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility. Existing law requires custodial officers to undergo specified training, and authorizes those officers to perform specified duties, including, among others, serving warrants, court orders, writs, and subpoenas in the detention facility, and maintaining custody of prisoners and related tasks. Existing law authorizes custodial officers employed by the Santa Clara County Department of Corrections to perform certain additional duties in a detention facility in that county, including, but not limited to, searching property, cells, prisoners, or visitors.

This bill would, upon resolution by the Napa County Board of Supervisors, authorize custodial officers employed by the Napa County Department of Corrections to perform certain additional duties in a facility located in Napa County similar to those described above for Santa Clara County correctional officers. The bill would prohibit its

provisions from being construed to authorize the performance of any law enforcement activity involving any person other than an inmate or his or her visitors. The bill would also include a related statement of legislative intent.

This bill would make legislative findings and declarations as to the necessity of a special statute for Napa County.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 831.5 of the Penal Code is amended to  
2 read:

3 831.5. (a) As used in this section, a custodial officer is a public  
4 officer, not a peace officer, employed by a law enforcement agency  
5 of San Diego County, Fresno County, Kern County, Stanislaus  
6 County, Riverside County, Santa Clara County, Napa County, or  
7 a county having a population of 425,000 or less who has the  
8 authority and responsibility for maintaining custody of prisoners  
9 and performs tasks related to the operation of a local detention  
10 facility used for the detention of persons usually pending  
11 arraignment or upon court order either for their own safekeeping  
12 or for the specific purpose of serving a sentence therein. Custodial  
13 officers of a county shall be employees of, and under the authority  
14 of, the sheriff, except in counties in which the sheriff, as of July  
15 1, 1993, is not in charge of and the sole and exclusive authority to  
16 keep the county jail and the prisoners in it. A custodial officer  
17 includes a person designated as a correctional officer, jailer, or  
18 other similar title. The duties of a custodial officer may include  
19 the serving of warrants, court orders, writs, and subpoenas in the  
20 detention facility or under circumstances arising directly out of  
21 maintaining custody of prisoners and related tasks.

22 (b) A custodial officer has no right to carry or possess firearms  
23 in the performance of his or her prescribed duties, except, under  
24 the direction of the sheriff or chief of police, while engaged in  
25 transporting prisoners; guarding hospitalized prisoners; or  
26 suppressing jail riots, lynchings, escapes, or rescues in or about a  
27 detention facility falling under the care and custody of the sheriff  
28 or chief of police.

1 (c) Each person described in this section as a custodial officer  
2 shall, within 90 days following the date of the initial assignment  
3 to that position, satisfactorily complete the training course specified  
4 in Section 832. In addition, each person designated as a custodial  
5 officer shall, within one year following the date of the initial  
6 assignment as a custodial officer, have satisfactorily met the  
7 minimum selection and training standards prescribed by the Board  
8 of State and Community Corrections pursuant to Section 6035.  
9 Persons designated as custodial officers, before the expiration of  
10 the 90-day and one-year periods described in this subdivision, who  
11 have not yet completed the required training, shall not carry or  
12 possess firearms in the performance of their prescribed duties, but  
13 may perform the duties of a custodial officer only while under the  
14 direct supervision of a peace officer, as described in Section 830.1,  
15 who has completed the training prescribed by the Commission on  
16 Peace Officer Standards and Training, or a custodial officer who  
17 has completed the training required in this section.

18 (d) At any time 20 or more custodial officers are on duty, there  
19 shall be at least one peace officer, as described in Section 830.1,  
20 on duty at the same time to supervise the performance of the  
21 custodial officers.

22 (e) This section shall not be construed to confer any authority  
23 upon any custodial officer except while on duty.

24 (f) A custodial officer may use reasonable force in establishing  
25 and maintaining custody of persons delivered to him or her by a  
26 law enforcement officer; may make arrests for misdemeanors and  
27 felonies within the local detention facility pursuant to a duly issued  
28 warrant; may make warrantless arrests pursuant to Section 836.5  
29 only during the duration of his or her job; may release without  
30 further criminal process persons arrested for intoxication; and may  
31 release misdemeanants on citation to appear in lieu of or after  
32 booking.

33 (g) Custodial officers employed by the Santa Clara County  
34 Department of Correction are authorized to perform the following  
35 additional duties in the facility:

36 (1) Arrest a person without a warrant whenever the custodial  
37 officer has reasonable cause to believe that the person to be arrested  
38 has committed a misdemeanor or felony in the presence of the  
39 officer that is a violation of a statute or ordinance that the officer  
40 has the duty to enforce.

1 (2) Search property, cells, prisoners or visitors.

2 (3) Conduct strip or body cavity searches of prisoners pursuant  
3 to Section 4030.

4 (4) Conduct searches and seizures pursuant to a duly issued  
5 warrant.

6 (5) Segregate prisoners.

7 (6) Classify prisoners for the purpose of housing or participation  
8 in supervised activities.

9 These duties may be performed at the Santa Clara Valley Medical  
10 Center, or at other health care facilities in the County of Santa  
11 Clara, as needed and only as they directly relate to guarding  
12 in-custody inmates. This subdivision shall not be construed to  
13 authorize the performance of any law enforcement activity  
14 involving any person other than the inmate or his or her visitors.

15 *(h) (1) Upon resolution by the Napa County Board of*  
16 *Supervisors, custodial officers employed by the Napa County*  
17 *Department of Corrections are authorized to perform all of the*  
18 *following duties in a facility located in that county:*

19 *(A) Arrest a person without a warrant whenever the custodial*  
20 *officer has reasonable cause to believe that the person to be*  
21 *arrested has committed a misdemeanor or felony in the presence*  
22 *of the officer that is a violation of a statute or ordinance that the*  
23 *officer has the duty to enforce.*

24 *(B) Search property, cells, prisoners, or visitors.*

25 *(C) Conduct strip or body cavity searches of prisoners pursuant*  
26 *to Section 4030.*

27 *(D) Conduct searches and seizures pursuant to a duly issued*  
28 *warrant.*

29 *(E) Segregate prisoners.*

30 *(F) Classify prisoners for the purpose of housing or*  
31 *participation in supervised activities.*

32 *(2) This subdivision shall not be construed to authorize the*  
33 *performance of any law enforcement activity involving any person*  
34 *other than an inmate or his or her visitors.*

35 ~~(h)~~

36 *(i) Nothing in this section shall authorize a custodial officer to*  
37 *carry or possess a firearm when the officer is not on duty.*

38 ~~(i)~~

39 *(j) It is the intent of the Legislature that this section, as it relates*  
40 *to Santa Clara County and Napa Counties, enumerate specific*

1 duties of custodial officers (known as “correctional officers” in  
2 Santa Clara ~~County~~ and Napa Counties) and to clarify the  
3 relationships of the correctional officers and deputy sheriffs in  
4 ~~Santa Clara County~~ those counties. These duties are the same duties  
5 of the custodial officers prior to the date of enactment of Chapter  
6 635 of the Statutes of 1999 pursuant to local rules and judicial  
7 decisions. It is further the intent of the Legislature that all issues  
8 regarding compensation for custodial officers remain subject to  
9 the collective bargaining process between the ~~County of Santa~~  
10 ~~Clara~~ counties and the authorized bargaining representative for  
11 the custodial officers. However, nothing in this section shall be  
12 construed to assert that the duties of custodial officers are  
13 equivalent to the duties of deputy sheriffs nor to affect the ability  
14 of the county to negotiate pay that reflects the different duties of  
15 custodial officers and deputy sheriffs.

16 ~~(j) This section shall become operative on January 1, 2003.~~

17 ~~(k) (1) Upon resolution by the Napa County Board of~~  
18 ~~Supervisors, custodial officers employed by the Napa County~~  
19 ~~Department of Corrections are authorized to perform all of the~~  
20 ~~following duties in a facility located in that county:~~

21 ~~(A) Arrest a person without a warrant whenever the custodial~~  
22 ~~officer has reasonable cause to believe that the person to be arrested~~  
23 ~~has committed a misdemeanor or felony in the presence of the~~  
24 ~~officer that is a violation of a statute or ordinance that the officer~~  
25 ~~has the duty to enforce.~~

26 ~~(B) Search property, cells, prisoners, or visitors.~~

27 ~~(C) Conduct strip or body cavity searches of prisoners pursuant~~  
28 ~~to Section 4030.~~

29 ~~(D) Conduct searches and seizures pursuant to a duly issued~~  
30 ~~warrant.~~

31 ~~(E) Segregate prisoners.~~

32 ~~(F) Classify prisoners for the purpose of housing or participation~~  
33 ~~in supervised activities.~~

34 ~~(2) This subdivision shall not be construed to authorize the~~  
35 ~~performance of any law enforcement activity involving any person~~  
36 ~~other than an inmate or his or her visitors.~~

37 ~~(3) It is the intent of the Legislature that this subdivision, as it~~  
38 ~~relates to Napa County, enumerate specific duties of custodial~~  
39 ~~officers (known as “correctional officers” in Napa County) and to~~  
40 ~~clarify the relationships of the correctional officers and deputy~~

1 sheriffs in that county. These duties are the same duties of the  
2 custodial officers prior to the date of enactment of Chapter 635 of  
3 the Statutes of 1999 pursuant to local rules and judicial decisions.  
4 It is further the intent of the Legislature that all issues regarding  
5 compensation for custodial officers remain subject to the collective  
6 bargaining process between Napa County and the authorized  
7 bargaining representative for the custodial officers. However,  
8 nothing in this subdivision shall be construed to assert that the  
9 duties of custodial officers are equivalent to the duties of deputy  
10 sheriffs nor to affect the ability of the county to negotiate pay that  
11 reflects the different duties of custodial officers and deputy sheriffs.

12 SEC. 2. The Legislature finds and declares that a special law  
13 is necessary and that a general law cannot be made applicable  
14 within the meaning of Section 16 of Article IV of the California  
15 Constitution because of the unique circumstances that exist in  
16 Napa County, where the Napa County Department of Corrections,  
17 rather than the County of Napa Sheriff's Department, has  
18 jurisdiction over the Napa County Jail facility.